

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of PacifiCorp (U-901-E) and  
MidAmerican Energy Holdings Company for  
Exemption Under Section 853(b) from the  
Approval Requirements of Section 854(a) of the  
Public Utilities Code with Respect to the  
Acquisition of PacifiCorp by MidAmerican.

Application 05-07-010  
(Filed July 15, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING  
REGARDING NOTICE OF INTENT TO CLAIM  
INTERVENOR COMPENSATION**

**1. Summary**

This ruling finds that the Karuk Tribe is eligible to seek an award for intervenor compensation in this proceeding pursuant to Public Utilities Code Sections 1801-1812.<sup>1</sup>

**2. Timeliness**

Section 1804(a)(1) requires an intervenor who plans to seek compensation to file and serve a notice of intent (NOI) to claim compensation no later than 30 days after the prehearing conference (PHC). The PHC in this proceeding was held on September 9, 2005. Because of weekends and a State holiday, the last day

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<sup>1</sup> All citations are to the Public Utilities Code.

to file an NOI was October 11, 2005.<sup>2</sup> The Karuk Tribe timely filed an NOI on October 11, 2005.<sup>3</sup>

### **3. Nature and Extent of Planned Participation**

Section 1804(a)(2)(A)(i) requires an NOI to state the nature and extent of the intervenor's planned participation in the proceeding. The Karuk Tribe satisfied this requirement in its NOI by stating that its participation will focus on how Application 05-07-010, if approved, will affect PacifiCorp's ability to finance, implement, and comply with any future conditions associated with PacifiCorp's Klamath River dams that may be imposed by the Federal Regulatory Energy Commission or other bodies of competent jurisdiction.

### **4. Itemized Estimate of Expected Compensation Request**

Section 1804(a)(2)(A)(ii) requires that an NOI include an itemized estimate of the compensation that the intervenor expects to request. The Karuk Tribe satisfied this requirement by providing the following estimate of the compensation it will request:

<b>Estimate of Expected Compensation</b>	
<b>Item</b>	<b>Amount</b>
250 Hours by Barbara Lee Norman @ \$200/hr	\$50,000
Travel Expense and Expert Witnesses	\$ 3,000
Telephone, Fax, Mail, Legal Research, etc.	\$7,000
<b>Total</b>	<b>\$60,000</b>

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<sup>2</sup> Rule 3.2 of the Commission's Rules of Practice and Procedure provides that when the last day falls on a weekend or holiday, the time limit is extended to include the first day thereafter.

<sup>3</sup> The Karuk Tribe filed a supplement to its NOI on November 9, 2005.

The Karuk Tribe satisfactorily presents an itemized estimate of the compensation it expects to request. The Karuk Tribe's actual request for compensation will have to demonstrate the reasonableness of the compensation requested, including the hours spent, hourly rates, and consultant costs.

## **5. Financial Hardship**

Section 1804(a)(2)(B) provides that an NOI may include a showing of significant financial hardship. If the NOI includes a showing of financial hardship, as is the case here, Section 1804(b)(1) requires the ALJ, in consultation with the Assigned Commissioner, to issue a preliminary ruling on whether the intervenor will be eligible for an award under the intervenor compensation program and whether a showing of significant financial hardship has been made. To determine eligibility, two questions must be addressed: whether the intervenor is a "customer" as defined in Section 1802(b), and whether participation will present a significant financial hardship.<sup>4</sup>

### **a. Customer**

Section 1802(b) defines "customer" in three ways: (1) a participant representing utility consumers, (2) a representative authorized by a customer, or (3) a representative of a group or organization that is authorized by its articles of incorporation or bylaws to represent the interests of residential customers or small commercial customers. The Karuk Tribe has demonstrated that it is a federally recognized tribe that is authorized by its Constitution to represent Karuk residential customers. Therefore, the Karuk Tribe fits the third category of customer set forth in Section 1802(b)(1)(C).

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<sup>4</sup> Decision 98-04-059.

**b. Significant Financial Hardship**

Section 1802(g) provides that “significant financial hardship” for Category 3 customers occurs when the economic interest of the individual members of the group is small in comparison to the cost of effective participation in the proceeding. The Karuk Tribe asserts that its members cannot effectively participate in this proceeding without intervenor compensation because (1) most Tribal members are poor, and (2) Tribal funds consist almost entirely of restricted federal grants. Based on these assertions, the Karuk Tribe has shown that its participation in this proceeding will cause a significant financial hardship as set forth in Section 1802(g).

**c. Eligibility to Claim Compensation and Consultation with the Assigned Commissioner**

Pursuant to Section 1804(b)(1), this Ruling finds that the Karuk Tribe has made a showing of significant financial hardship and is eligible to seek intervenor compensation. This finding of eligibility in no way assures that an award of compensation will be granted. As required by Section 1804(b)(1), this Ruling was made after consultation with Assigned Commissioner Bohn.

**IT IS RULED that:**

1. The Karuk Tribe filed a timely notice of intent to claim compensation that meets the applicable requirements under Section 1804(a).
2. The Karuk Tribe meets the definition of “customer” set forth in Section 1802(b).
3. The Karuk Tribe has shown that its participation in this proceeding without an award of fees or costs would impose a significant financial hardship.

4. The Karuk Tribe is eligible to seek an award of intervenor compensation in this proceeding. This finding of eligibility in no way assures an award of compensation will be granted.

Dated November 21, 2005, at San Francisco, California.

/s/ TIMOTHY KENNEY

Timothy Kenney  
Administrative Law Judge

## **CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on Notice of Intent to Claim Intervenor Compensation on all parties of record in this proceeding or their attorneys of record.

Dated November 21, 2005, at San Francisco, California.

/s/ JOYCE TOM

Joyce Tom

## **N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.